

AMENDED IN SENATE JUNE 17, 2013

AMENDED IN ASSEMBLY APRIL 17, 2013

AMENDED IN ASSEMBLY MARCH 19, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 537

Introduced by Assembly Member Bonta

February 20, 2013

An act to amend Sections 3505, 3505.1, 3505.2, and 3507 of, and to add Section 3505.8 to, the Government Code, relating to public employment.

LEGISLATIVE COUNSEL'S DIGEST

AB 537, as amended, Bonta. Meyers-Milias-Brown Act: impasse procedures.

The Meyers-Milias-Brown Act requires the governing body of a local public agency to meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of recognized employee organizations. Under the act, if the representatives of the public agency and the employee organization fail to reach an agreement, they may mutually agree on the appointment of a mediator and equally share the cost.

This bill would instead authorize the representatives of the public agency or the employee organization, if they fail to reach an agreement, to request mediation. The bill would require that the parties agree upon the appointment of a mediator mutually agreeable to the parties within 5 days of a request by one of the parties. If the parties fail to agree on the selection of a mediator within 5 days, the bill would ~~provide that~~ *authorize* either party ~~may~~ to request the appointment of a mediator, as

specified. By requiring a higher level of service by a local public agency, the bill would impose a state-mandated local program.

The act requires that, in order to meet and confer in good faith, a public agency meet personally and confer promptly, and continue for a reasonable period of time, with the employee organization in order to exchange freely prior to the agency adopting a budget for the next fiscal year.

This bill would prohibit a public agency from conditioning the meeting and conferring on a limitation on the right of employees or an employee organization to communicate with officials of the agency.

The act requires, if an agreement is reached, that the parties prepare jointly a nonbinding written memorandum of understanding of the agreement that would then be presented to the governing body or its statutory representative for determination.

~~This bill would require that, if an agreement is reached, the parties would prepare a written memorandum of understanding, which would be binding upon execution or ratification, as specified.~~ *a tentative agreement reached by the parties be presented to the governing body for determination and, if not rejected within 30 days, be deemed adopted. This bill would not bar the filing of a charge for failure to meet and confer in good faith if the governing body rejects the tentative agreement. The bill would further require the parties to jointly prepare a written memorandum of understanding upon adoption of the tentative agreement by the governing body.*

Under existing law, a written agreement to submit to arbitration a specified controversy is valid, enforceable, and irrevocable, except if grounds exist for the revocation of the written agreement.

This bill would additionally provide that an arbitration agreement contained in a memorandum of understanding entered into under the Meyers-Milias-Brown Act is enforceable, as specified.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

SECTION 1. Section 3505 of the Government Code is amended to read:

3505. (a) The governing body of a public agency, or the boards, commissions, administrative officers, or other representatives as properly designated by law or by a governing body, shall meet and confer in good faith regarding wages, hours, and other terms and conditions of employment with representatives of those recognized employee organizations, as defined in subdivision (b) of Section 3501, and shall consider fully such presentations as are made by the employee organization on behalf of its members prior to arriving at a determination of policy or course of action.

(b) "Meet and confer in good faith" means that a public agency, or such representatives as it may designate, and representatives of recognized employee organizations, shall have the mutual obligation personally to meet and confer promptly upon request by either party and continue for a reasonable period of time in order to exchange freely information, opinions, and proposals, and to endeavor to reach agreement on matters within the scope of representation prior to the adoption by the public agency of its final budget for the ensuing year. A public agency shall not propose as a condition of meeting and conferring a limitation on the right of an employee organization or employees of the agency to communicate with officials of the agency. The process should include adequate time for the resolution of impasses where specific procedures for such resolution are contained in local rule, regulation, or ordinance, or when such procedures are utilized by mutual consent.

~~SEC. 2. Section 3505.1 of the Government Code is amended to read:~~

~~3505.1. If agreement is reached by the authorized representatives of the public agency and a recognized employee organization or recognized employee organizations, they shall jointly prepare a written memorandum of understanding, which shall be binding upon final execution by the authorized representatives or, if ratification is required by the recognized employee organization's internal rules, upon ratification pursuant to those rules.~~

1 SEC. 2. *Section 3505.1 of the Government Code is amended*
2 *to read:*

3 3505.1. *If a tentative agreement is reached by the authorized*
4 *representatives of the public agency and a recognized employee*
5 *organization or recognized employee organizations, they shall*
6 *jointly prepare a written memorandum of such understanding,*
7 *which shall not be binding, and present it that tentative agreement*
8 *shall be presented to the governing body or its statutory*
9 *representative for determination. If the governing body does not*
10 *reject the tentative agreement within 30 days from its presentation,*
11 *it shall be deemed adopted. A decision by the governing body to*
12 *reject the tentative agreement shall not bar the filing of a charge*
13 *of unfair practice for failure to meet and confer in good faith. If*
14 *the governing body adopts the tentative agreement, the parties*
15 *shall jointly prepare a written memorandum of understanding.*

16 SEC. 3. *Section 3505.2 of the Government Code is amended*
17 *to read:*

18 3505.2. *If after a reasonable period of time, representatives of*
19 *the public agency and the recognized employee organization fail*
20 *to reach agreement, either the public agency or the recognized*
21 *employee organization or recognized employee organizations may*
22 *request mediation. Within five days of a request by one of the*
23 *parties, the parties shall agree upon the appointment of a mediator*
24 *mutually agreeable to the parties. If the parties fail to agree on the*
25 *selection of a mediator within five days, either party may request*
26 *that the board appoint a mediator. The board shall, no later than*
27 *five days after receipt of the request, appoint a mediator in*
28 *accordance with rules prescribed by the board. Costs of mediation*
29 *shall be divided one-half to the public agency and one-half to the*
30 *recognized employee organization or recognized employee*
31 *organizations.*

32 SEC. 4. *Section 3505.8 is added to the Government Code, to*
33 *read:*

34 3505.8. *An arbitration agreement contained in a memorandum*
35 *of understanding entered into under this chapter shall be*
36 *enforceable in an action brought pursuant to Title 9 (commencing*
37 *with Section 1280) of Part 3 of the Code of Civil Procedure. An*
38 *assertion that the arbitration claim is untimely or that the party*
39 *seeking arbitration has failed to satisfy the procedural prerequisites*
40 *to arbitration shall not be a basis for refusing to submit the dispute*

1 to arbitration. All procedural defenses shall be presented to the
2 arbitrator for resolution. A court shall not refuse to order arbitration
3 because a party to the memorandum of understanding contends
4 that the conduct in question arguably constitutes an unfair practice
5 subject to the jurisdiction of the board.

6 SEC. 5. Section 3507 of the Government Code is amended to
7 read:

8 3507. (a) A public agency may adopt reasonable rules and
9 regulations after meeting and conferring in good faith with
10 representatives of a recognized employee organization or
11 organizations for the administration of employer-employee
12 relations under this chapter. An impasse in these negotiations shall
13 be resolved pursuant to the procedures of Sections 3505.4 to
14 3505.7, inclusive.

15 (b) The rules and regulations described in subdivision (a) may
16 include provisions for all of the following:

17 (1) Verifying that an organization does in fact represent
18 employees of the public agency.

19 (2) Verifying the official status of employee organization
20 officers and representatives.

21 (3) Recognition of employee organizations.

22 (4) Exclusive recognition of employee organizations formally
23 recognized pursuant to a vote of the employees of the agency or
24 an appropriate unit thereof, subject to the right of an employee to
25 represent himself or herself as provided in Section 3502.

26 (5) Additional procedures for the resolution of disputes involving
27 wages, hours, and other terms and conditions of employment.

28 (6) Access of employee organization officers and representatives
29 to work locations.

30 (7) Use of official bulletin boards and other means of
31 communication by employee organizations.

32 (8) Furnishing nonconfidential information pertaining to
33 employment relations to employee organizations.

34 (9) Any other matters that are necessary to carry out the purposes
35 of this chapter.

36 (c) Exclusive recognition of employee organizations formally
37 recognized as majority representatives pursuant to a vote of the
38 employees may be revoked by a majority vote of the employees
39 only after a period of not less than 12 months following the date
40 of recognition.

1 (d) No public agency shall unreasonably withhold recognition
2 of employee organizations.

3 (e) Employees and employee organizations shall be able to
4 challenge a rule or regulation of a public agency as a violation of
5 this chapter. This subdivision shall not be construed to restrict or
6 expand the board's jurisdiction or authority as set forth in
7 subdivisions (a) to (c), inclusive, of Section 3509.

8 SEC. 6. If the Commission on State Mandates determines that
9 this act contains costs mandated by the state, reimbursement to
10 local agencies and school districts for those costs shall be made
11 pursuant to Part 7 (commencing with Section 17500) of Division
12 4 of Title 2 of the Government Code.